Artificial Termination of Pregnancy in the Republic of Slovenia and the USA

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Abstract

Abortion is a medical procedure to terminate a pregnancy and is a basic medical care needed by millions of women, girls and other people who can become pregnant. Access to safe abortion is a human right. Under international human rights law, everyone has the right to health and life free from violence, discrimination, torture or cruel, inhuman or degrading treatment. Forcing someone to carry an unwanted pregnancy to term or to choose an unsafe abortion method is a human rights violation that infringes the right to privacy and bodily autonomy. People who do not have a choice often resort to unsafe abortion methods, risking prosecution and punishment, including the possibility of imprisonment. They may face cruel, inhuman and degrading treatment, discrimination and exclusion from basic post-abortion health care. Access to abortion is a key factor in ensuring social justice and gender equality.[1]

Keywords: abortion, medical procedure, pregnancy, health care, women's fundamental rights

1. INTRODUCTION

Artificial termination of pregnancy or abortion is an intervention that intentionally[2] terminates a pregnancy. With the recent decision of the US Supreme Court, as well as the recent case of a Croatian citizen who, due to the rejection of the intervention based on the doctors' conscientious objection, was forced to resort to Slovenian doctors, there is no doubt that abortion is still one of the topics that is thoroughly debated in society. In general terms, the meaning of individual arguments is embodied by two large groups, the so-called "*pro-life*" and "*pro-choice*" movements. The former advocate a position based on the preservation of foetal life, while the latter take the view that a woman has the autonomous right and freedom to dispose of her body and to decide on the birth of her children. In this seminar paper, I explore the origins of American abortion rights and the related landmark rulings of the US Supreme Court and their interdependence with the development of the practice itself.

Despite restrictions and barriers to access to abortion, the right to abortion must be made available. Bans and restrictions only force women to use unsafe abortion methods, not reduce the number of abortions. Women who cannot afford to travel and receive adequate medical care in countries where abortion is permitted are particularly at risk. The World Health Organisation estimates that 25 million unsafe abortions are performed worldwide each year, the vast majority of them in developing countries. Unlike a legal abortion performed by a trained health professional, unsafe abortions can have fatal consequences. According to the WHO, abortion is the third leading cause of maternal death worldwide. Abortion also causes an additional five million disabilities a year, which are largely preventable.[3]

Abortion became legal throughout the United States with the landmark Supreme Court decision in Roe v. Wade in 1973. Although each state still had its own set of legal guidelines for abortion, some much more restrictive than others, abortion was nevertheless legal in all parts of the country. On 24 June 2022, however, the Supreme Court overruled Roe v. Wade in Dobbs v. Jackson Women's Health Organization. This decision allowed each state to legalise or ban abortion. As a result, national abortion laws differ more than ever. Before Roe v. Wade, 30 states banned abortion completely. Although the ruling forced these states to legalise abortion, many still have laws that restrict abortion to the extent legally permissible. It was to be expected that these countries would quickly re-ban abortion. This has proved to be the case, as more than 20 states, mainly red states in the central and southern USA, have re-banned abortion within a week of the Dobbs decision. Some of these bans were the result of pre-existing abortion bans that had been invalidated by Roe v. Wade, but were never removed from state law, so they became active again after the ruling was overturned.

In addition, since South Dakota in 2005, thirteen states have enacted proactive "trigger laws" – anti-abortion laws specifically designed to take effect if Roe v. Wade were ever overturned.[4]

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[1] The right to abortion, Amnesty International, 2022, e-source.

[2] This is in contrast to spontaneous abortion, which occurs because of abnormalities in the development of the foetus itself and is rejected by the body, or because of other life-threatening accidents.

[3] Ibid.

[4] Countries Where Abortion Is Illegal 2022, World Popular Review, 2022, e-source.

2. *ARTIFICIAL TERMINATION OF PREGNANCY IN SLOVENIA*

2.1 HISTORY OF ARTIFICIAL TERMINATION OF PREGNANCY (ATP) IN SLOVENIA

"In the old Yugoslavia, abortion was prohibited and criminalised."[5]

Criminal responsibility was borne by both persons involved in the ATP, i.e. both the pregnant woman and the person who terminated the pregnancy. Artificial termination of pregnancy was not defined as a criminal offence if it was committed for medical reasons with the authorisation of a medical commission. The same applied after the war. "According to the 1951 Criminal Law, abortion was not punishable if it was performed for medical or other justifiable reasons (indications) with the approval of a commission. The law considered such reasons to be eugenic (if the child could reasonably be expected to be born with severe birth defects) and moral-legal reasons (if the pregnancy was related to certain crimes, in particular rape). Social reasons were only taken into account if they were linked to health reasons (if the birth of the child would worsen the living conditions of the pregnant woman to such an extent that her health would be endangered)." In 1960, a decree was adopted on the performance of abortions, which, however, extended the conditions for abortion and obliged all those who deal with pregnant women, and especially young people, to warn of the benefits of contraception and the dangers of abortion. Nine years later, in 1969, "a federal resolution on family planning" was adopted, "which took the principled position that the free decision on the birth of children (including the decision to terminate a pregnancy) was a fundamental human right, and specifically stressed that the primary means of birth control was the prevention of unwanted conception through contraception, and that termination of pregnancy was the most undesirable means of birth control". Since the adoption of the Constitution in 1974, the Republics have more or less consistently applied the principle that the decision on the birth of children is a human right that can be limited only on medical grounds. Under the 1977 Criminal Codes of the Republics and Provinces, the termination of a pregnancy is a criminal offence only if it is not carried out in accordance with the provisions of the special regulations on artificial termination of pregnancy. "Our legislation on artificial termination of pregnancy is therefore one of the liberal ones which recognise a woman's right to regulate childbirth by artificial termination of pregnancy."[6]

"In Yugoslavia, the right to abortion has been regulated by law since 1952, and in 1974 it became one of the first countries in the world to enshrine the right to decide freely on the birth of children in its constitution."[7]

2.2 LEGAL REGULATION OF ARTIFICIAL TERMINATION OF PREGNANCY IN SLOVENIA

In Slovenia, ATP is regulated by the Health Measures in Exercising Freedom of Choice in Childbearing Act (ZZUUP), the Constitution of the Republic of Slovenia (URS), the Criminal Code (KZ-1), the Health Care and Health Insurance Act (ZZVZV), the Medical Services Act (ZZdrS), the Health Services Act (ZZDej), and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

2.2.1 Health Measures in Exercising Freedom of Choice in Childbearing Act

Several articles of the ZZUUP contain provisions on ATP, and the very first article states: "A person has the right to decide freely on the birth of children. Every possibility shall be available to a woman and a man to assist them in the exercise of this right in the context of health care. This law provides for health measures in the exercise of this right and for its limitation on health grounds." The health measures regulating childbirth prescribed and regulated by the ZZUUP are "prevention of conception, artificial termination of pregnancy and the detection and treatment of reduced fertility." Article 5 of the ZZUUP regulates the reporting obligation of providers of artificial termination of pregnancy or sterilisation to the authorities that keep health statistics. The ZZUUP regulates artificial termination of pregnancy in more detail in Chapter 3, in Articles 17 to 30. Article 17 defines artificial termination of pregnancy as "a medical procedure carried out at the request of a pregnant woman when the pregnancy does not last more than ten weeks." Under Article 18, a pregnancy of more than ten weeks can only be carried out if the mother's life or health is at risk and if the risks to future pregnancies or maternity could be reduced by artificial termination of pregnancy. Articles 19, 20 and 21 contain provisions regarding the work, composition, powers and duties of the commission the consent of which is required for an artificial termination of pregnancy if the pregnancy lasts more than 10 weeks. If the pregnant woman requesting the procedure for an artificial termination of pregnancy is legally incompetent, the request of her parents or guardians is required for the procedure to be initiated, as provided for in Article 22 of the ZZUUP; in the same way, the consent of the parents or guardians is required for the procedure for an ATP requested by a minor, unless she has not acquired full legal capacity before reaching the age of majority.

[5] Zupančič, 1991, pp. 131–132.
[6] Ibid.
[7] Grgič, 2018, e-source.

Article 23 states that consent to an intervention under the health care provisions is contained in the request for an artificial termination of pregnancy. Even where an ATP is requested by a pregnant woman who is a minor and of sound mind, or a pregnant woman of full age and deprived of legal capacity, she is nevertheless of sound mind. Article 24 sets out the necessary annexes to be submitted by a pregnant woman who is less than 10 weeks pregnant. If the annexes show that there are grounds for opposing the ATP, it is the duty of the health organisation to refer the pregnant woman to the first-level commission. Articles 25 and 26 determine the procedures before the commission, which are absolutely necessary if a pregnant woman whose pregnancy lasts more than 10 weeks requests an ATP, or as stipulated in Article 27, "no authorisation from the first- or second-level commission shall be required to complete the initiated termination of pregnancy". According to Article 28 of the ZZUUP, ATP is carried out in the health organisations defined in Article 16 of the Act, namely general, special and clinical hospitals with an organised gynaecological, obstetrical or surgical service, or other health organisations authorised by the State Committee for Health and Social Welfare.[8] In the event of suspicion of a criminal offence in the completion of an initiated termination of pregnancy, the health organisation shall be obliged to report or notify the competent authority of such suspicion, as provided for in Article 29. Article 30, which relates to artificial termination of pregnancy, provides that health and social workers and health organisations are obliged to inform pregnant women about the procedure, course and consequences of artificial termination of pregnancy.[9]

2.2.2 The Constitution of the Republic of Slovenia

Although the Constitution of the Republic of Slovenia does not directly enshrine the right to artificial termination of pregnancy in any article, paragraph 1 of Article 55 provides that the right to decide on the birth of one's own children is free. The Constitutional Commission, when the Constitution was adopted, already gave an interpretation of this article and clarified that the freedom to decide on the birth of children also includes the right of women to have an artificial termination of pregnancy. Article 35 of the URS guarantees the right to privacy and personal rights,[10] in the same way as Article 8 of the European Convention on Human Rights, which further stipulates that public authorities may not interfere with the exercise of this right unless such interference would be in accordance with the law and would be necessary.[11] Under these provisions, every individual has the right to decide independently on the abortion, without interference or influence by public authorities.

2.2.3 Criminal Code

Paragraphs 1 and 2 of Article 121 of the Criminal Code provide for imprisonment of between six months and five years for anyone who "in contravention of the medical conditions and the method of artificial termination of pregnancy laid down by law, terminates, begins to terminate or assists in the termination of the pregnancy of a pregnant woman with her consent", and imprisonment of between one and eight years for anyone who "terminates or begins to terminate the pregnancy of a pregnant woman without her consent".[12]

Since under Slovenian law the foetus does not enjoy the constitutionally guaranteed inviolability of human life, it makes no sense that it should have any legal significance. As long as the foetus is in the woman's body and is incapable of extrauterine life, it is part of the mother's body, so the purpose of the Slovenian criminal law provisions on the unauthorised termination of pregnancy is to protect the life and health of the pregnant woman and to protect the foetus.[13]

2.2.4 Health Care and Health Insurance Act

Article 23 of the Health Care and Health Insurance Act (ZZVZZ) sets out the health services that are covered in full or at least 90 per cent of the value, at least 80 per cent of the value, at least 70 per cent of the value, at most 60 per cent of the value and at most 50 per cent of the value under compulsory health insurance. In the first indent of item 3 of paragraph 1 of this Article, "services relating to the provision and treatment of reduced fertility and artificial insemination, sterilisation and artificial termination of pregnancy" are covered at a minimum of 80 per cent of the value.

2.3 ARTIFICIAL TERMINATION OF PREGNANCY OF FOREIGN CITIZENS IN SLOVENIA

Given the rather liberal legislation on the ATP, Slovenia is an ideal destination for pregnant women who want to have an ATP and come from countries where ATP is not allowed, or where the procedures for establishing pregnancy abnormalities and obtaining the necessary documentation are so time-consuming that they decide to go

[8] ZZUUP, Article 16.
[9] Ibid, Articles 17–30.
[10] URS, Article 35.
[11] ECHR, Article 8.
[12] KZ-1, Article 121.
[13] Zupančič, 1991, p. 140.

abroad for fear of missing the legal deadline for ATP. Most foreign pregnant women come from the neighbouring Republic of Croatia. Most of them choose to have the ATP in Slovenian hospitals near the border. Most Croatian women who are still in the early stages of pregnancy decide to terminate their pregnancy with the pill. In Croatia, this method of abortion is only available in Rijeka and Pula.[14] However, approximately 60 per cent of Croatian gynaecologists do not perform abortions and refuse to participate in the procedure due to conscientious objection.[15]

3 ARTIFICIAL TERMINATION OF PREGNANCY IN THE USA

3.1 SHORT HISTORICAL OVERVIEW

3.1.1 The Quickening

Before the nineteenth century, there were no specific regulations or statutes in the United States regarding abortion; the legal status was governed by the British civil law, and local courts in the new American states interpreted it on a case-by-case basis, thus creating precedent. This provided for a specific moment in pregnancy, called "quickening", for the rights of the foetus to be recognised. Quickening is the first perception of foetal movements by a pregnant woman.[16] The timing of this moment can vary considerably from one woman to another, but it usually occurs near the middle of pregnancy, late in the fourth or early in the fifth month. As there were no reliable pregnancy tests at that time, the mother's perception of the foetus's movements was the first of the main signs of pregnancy that could be used to say with absolute certainty that the woman was indeed pregnant. A foetus whose movements had not yet been detected was not legally recognised as a subject, and acts resulting in the destruction of such a foetus were not punishable in the United States.[17]

After the moment of perception, the destruction of the foetus, without a proper reason, was considered a crime, since its movement indicated its ability to exist separately. Even if the foetus had acquired certain rights at that moment, acts resulting in the termination of a pregnancy were punishable more lightly than the murder of a human being.[18]

3.2 First statutes

Connecticut began to regulate abortion in the United States with the adoption of an updated Criminal Code, the first to explicitly criminalise certain types of abortion. The General Assembly added a new Article 14 prohibiting the provision of medical drugs to terminate a pregnancy after the detection of foetal movements.[19] This article did not prohibit abortion *per se*, only a specific method of artificial termination of pregnancy, because it was considered dangerous due to the risk of poisoning.[20] Similar laws aimed at preventing poisoning during procedures were adopted by a number of other states during the mid-nineteenth century, e.g. Missouri (1825), Illinois (1827) and New York (1828). The latter added the termination of pregnancy before the detection of the foetus as an offence, and only the performer was punished. These types of prohibitions were aimed primarily at limiting the actions of doctors and pharmacists who prescribed harmful herbal preparations that acted more like poison than as an effective means of terminating pregnancy. Surgical and other methods were exempted from the legislation.[21]

3.3 Development of the abortion practice

By the mid-nineteenth century, abortion had become a social reality, a business that was no longer a marginal practice, closer to "mere" unmarried women or partners, but a widespread social phenomenon, and the women who chose it came from all different social classes and communities.[22] In line with the demand, science has evolved, and with it, new mentalities that have concretely transformed public opinion on termination of pregnancy.

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[14] Croatian women have abortions in Slovenia, price: EUR 1,100, Slovenske novice, 2019, e-source.
[15] Guilty of conscientious objection, Mladina, 2019, e-source.
[16] Quickening in Pregnancy: Feeling the First Foetal Kicks, e-source.
[17] Commonwealth v. Bangs, 9 Mass**.** 387, 8 Tyng 387 (1812) – Isaiah Bangs was charged with assault and administering harmful substances that were designed to and did cause the termination of a pregnancy. He was found guilty, but managed to overturn the verdict because the prosecution did not allege that there had been any detection of foetal movements. Commonwealth v. Bangs remained the leading precedent in cases of termination of pregnancy and, at least until the first half of the nineteenth century, charges for termination of pregnancy before the mother's detection of foetal movements were rarely brought before the courts. If the issue did come before the courts, the answer was the same, namely that it was not a crime in itself.
[18] J. Mohr, 1978.
[19] An interesting reading of the historical circumstances for the adoption of such a law: G. Brockell, How a sex scandal led to the nation's first abortion law 200 years ago, available at: https://www.washingtonpost.com/history/2019/05/16/how-sensational-sex- scandal-led-nations-first-abortion-law-years-ago/ .
[20] Mohr J., 1978.
[21] Blakemore E., 2022.
[22] Blakemore E., 2018.

It was discovered that fertilisation is a continuous process of the development of the foetus into a human being, and the perception of the foetus's movements is no more or less crucial than any other step. If termination of the pregnancy was unjustified after the detection of foetal movements, a large number of doctors were of the opinion that it was unjustified to terminate the pregnancy even before the detection. With the professionalisation of the profession itself, the view that licensed doctors, not midwives or women themselves, should provide care throughout the reproductive cycle has also become prevalent.

3.4 Post-civil war order

With the onset of the Victorian era, clergymen and some state officials began to call for restrictions on the distribution of "obscene" objects among society. Anthony Comstock was a leading figure in the movement, and his definitions of obscene and lewd were quite broad. In 1873, the US Congress passed a series of federal acts, later called the Comstock laws, which served as the decisive legislation on any kind of sexual content.[23]

The parent act was the Act to suppress the trade and circulation of obscene literature and articles for immoral use. It criminalised the use of the National Postal Service for the mailing of any obscenity, contraceptives, abortifacients, sex toys and personal letters with sexual content and, in connection therewith, any material containing information on any of the above, including but not limited to anatomy textbooks.[24]

This was followed by the adoption of laws at the level of the individual state. Along with pornography, contraceptives and educational content, termination of pregnancy was also banned. Lawmakers abandoned traditional rules on the detection of foetal movements and immunity of women from criminal liability in cases of artificial termination of pregnancy. By the 1930s, abortion was criminalised in most states and as such was carried out in secret, without rigorous supervision or access to adequate medical care. The situation of abortion remained virtually unchanged until the 1960s.

3.5 Decisive rulings by the US Supreme Court

3.5.1 **Griswold v. Connecticut**, 381 U.S. 479 (1965)

The US Supreme Court's decision overturns Connecticut's Comstock Law, which banned anyone from using any medicine or medical device to prevent conception.[25]

The United States Supreme Court held that, although not explicitly codified, the right to privacy (in marriage) is implied by other constitutionally guaranteed rights.[26] These unwritten rights are evident from the intent of the written rights, are encompassed within its shadow, and as such deserve legal protection. Judge Goldberg, in a separate opinion in the affirmative, addressed the judgement with the ninth amendment, which presupposes the existence of precisely such fundamental rights that are not explicitly and exhaustively enumerated in the Constitution. Judges White and Harlan II also did so, but with reference to the Due Process Clause.[27]

With a later decision, in the case of Eisenstadt v. Baird, the Supreme Court, based on the Equal Protection Clause of the Fourteenth Amendment, extended the Griswold ruling and extended the right to use contraception to unmarried couples.

3.5.2 Roe v. Wade, 410 U.S. 113 (1973)

A landmark decision by the US Supreme Court, which established the legislative standard (at least for the next 50 years) that the right to artificial termination of pregnancy is a constitutional federal right and as such should not be prohibited. By a vote of 7-2, the Court determined that federal laws prohibiting abortion except in cases of danger to the mother violated the Due Process Clause of the 14th Amendment, which gives rise to the right to self-determination over one's own body.[28] In order to reconcile conflicting interests, such as the constitutional right of citizens to privacy (the sphere of rights covered by which has been extended by the same court in the past), the duty of the state to protect women's health (hence the basis for the original legislation on termination of pregnancy) and the duty of the state to protect developing life, the court divided the period of human pregnancy into thirds (trimesters).

[23] The Comstock Law (1873), e-source

[24] Buchanan P., 2009.

[25] To challenge such legislation, Estelle Griswold and Dr Charles Buxton, under the auspices of the Planned Parenthood League of Connecticut, opened a contraceptive clinic in New Haven. A week later, they were arrested, convicted (after a one-day trial) and fined one hundred dollars *per capita*. The conviction was upheld by the Appellate Division of the District Court and the Connecticut Supreme Court.

[26] E.g. from the First, Third, Fourth or Fifth Amendments of the US Constitution.

[27] The latter is the main basis for the Roe v. Wade decision.

[28] According to Erbežnik, due process is an institution that prohibits state and local authorities from depriving persons of life, liberty or property without due process of law.

In the first trimester, a woman's right to make private decisions about her pregnancy, free from state interference, is the strongest of all rights, but its strength diminishes as the pregnancy progresses. Even in the second trimester, the state cannot prohibit this right, but it can restrict and prohibit it through a duty to protect the health of the woman, who is more exposed to the risks of termination of pregnancy during this period. It is only in the third trimester[29] that the state's interest in protecting potential life is sufficiently strengthened to allow it to prohibit abortion except where it is necessary to protect the life of the pregnant woman.

3.5.3 **Casey v. Planned Parenthood**, 505 U.S. 833 (1992)

Despite the inclusion of abortion as a constitutionally protected right, opponents of abortion have continued to pressure legislators, in some cases successfully. Since the Roe judgement explicitly endorses state regulation, legislators in some states have used it to enact provisions that make it more difficult for women to access abortion.

One such law was Pennsylvania's 1982 Abortion Control Act, which established mandatory conditions for a legal procedure, specifically (1) notification of the partner, (2) consent of the minor's parent, (3) a 24-hour waiting period between state-required counselling about the procedure and its performance, and (4) an obligation for institutions to report the procedure.

In its decision, the Court (by a vote of 5-4) abolished the three-month time frame and introduced the foetal viability test as a key turning point in pregnancy. The heightened state interest in protecting foetal health is thus, with medical progress, shifted from the 28th to the 24th week. The Court also finds that the state has an interest even before the point of foetal viability, but that any restrictions which impose an undue burden on a woman who wishes to exercise this right at that time, such as the Pennsylvania law's article on notification of the partner, are impermissible.[30]

3.5.4 **Dobbs v. Jackson Women's Health Organization**, No. 19-1392, 597 U.S. (2022)

This organisation sought to challenge Mississippi's law, which prohibited abortion after 15 weeks of pregnancy unless the woman had a serious medical condition. They won the case, but the State of Mississippi succeeded in getting the case on the Supreme Court's agenda by appealing. Up to that point, the specific constitutional issue was tied only to a fifteen-week time limit, which the Court could only uphold or overturn, but it went further anyway, overturning Roe v. Wade decision by a vote of 5-4[31] and allowing each state to decide autonomously whether or not to recognise a right to abortion.

In the majority opinion, Judge Alito does agree in the opening that some fundamental rights are not explicitly set out in the Constitution itself and, as a result, recognises pre-derived rights such as the right to interracial or same-sex marriage and the right to contraception. But he does not include the right to abortion in this group of judicially recognised rights because the foregoing do not end potential life and because the right itself fails the implied rights test, which can only establish a right as fundamental if it is (1) deeply embedded in a nation's history and tradition and (2) essential to its system of liberty.[32] A right must be neither too old nor too young, and Roe, at fifty years old, is too young, and any potential rights before the Constitution's adoption clearly did not survive codification.

They also negate the argument of *stare decisis*, the idea that the court should follow precedent. In assessing whether a court has departed from precedent, it must take into account a number of factors, namely: (1) the nature of the court's error, (2) the quality of the reasoning, (3) the feasibility of the standard and its effects on other areas of law, and (4) the interest of legal certainty. In response to the five factors at issue, Alito argued that Roe v. Wade is fundamentally unfair because it forecloses the ability of anti-abortion advocates to lobby the state, that the undue burden standard is too demanding to be feasible, and that reversal of the precedent itself would not impede women's interest in legal certainty as the right to an abortion is not the same as, e.g., the right to property. Ironically, most of the previous courts have been accused of activism and of assuming the role of legislator, even though the decisions have largely been a mirror of the development of a just and democratic society, yet I agree with Erbežnik's opinion that every constitutional judicial review is at the same time an interpretation and creation of law and never merely a search for the original meaning, especially in the case of a charter that was adopted centuries ago in a different cultural and social order.

[29] Or after viability has been achieved. The Court defines this as the point at which the foetus can live independently outside the womb, albeit with medical assistance.

[30] Quote from the judgement: "An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place substantial obstacles in the path of a woman seeking an abortion before the foetus attains viability."

[31] Some think it is 6-3 because Judge Roberts wrote a (separate!) opinion in the affirmative, but only on the limitation of the right to abortion to the 15th week of pregnancy, not on Roe v. Wade.

[32] Many commentators say that if the predecessor judges had defined the right to abortion with an equal protection clause, it would have had more permanent protection, and Alito agrees, but he rejects the right anyway, saying that the court has already ruled that it is not gender-classified.

As a result, the original interpretation of the Constitution is often the expression of outdated views, especially when it comes to the interpretation of texts adopted at a time when, for example, segregation still existed, women did not have the right to vote, etc. In Erbežnik's view, constitutional activism is positive and necessary as long as it increases the level of individual rights and corrects the injustices that the indifference and passivity of the majority have tolerated."[33]

4 CONCLUSION

The development of abortion policy in the United States has been inextricably linked to the history of their medical practice. The conservatism of the medical profession in sexual matters prevented the spread of more advanced abortion techniques in the early nineteenth century, and if safer methods of termination had been available, they would have remained legal. Since medicine is a scientific discipline, doctors are competent to give expert opinions which serve as the basis for legislation affecting the whole population (in the case of termination of pregnancy, mainly the sphere of women's rights). However, in the early days of professionalisation of the profession itself, gender equality was not established in principle, as women did not have comparable access to education and, as a result, the profession was mainly practised by men. Currently, all abortions are prohibited in twelve US states, in South Dakota and Tennessee even without exceptions on grounds of rape or incest, risk to the mother's general health or foetal abnormality. In Yugoslavia, too, abortion was prohibited and criminalised for everyone involved, including the woman, but with the advent of the neoliberal ideologies of the European area, women have gained the right to decide more freely about the procedure and about their own bodies. Slovenia is doing a relatively good job of creating the conditions and adopting legislation which, among other things, is a preventive measure to ensure that the number of abortions itself falls.

Despite the perceived tendency to oppose women's fundamental rights throughout the world, I believe that, in terms of respecting, preserving and protecting women's rights and freedoms, Slovenia is an excellent example and benchmark for other countries and, in extreme cases, also serves as a safe house to help citizens of countries that deny them these rights.

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